IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3741 OF 2005

Nikhil Dhirubhai Dalal ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr.Jaykar i/b M/s.Khaitan & Jayakar for the Applicant
Ms S.D.Shinde,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : JULY 1,2005.

P.C.:

1. Heard Counsel appearing for the parties. The Applicant was arrested on 20th May 2005 in connection with C.R.No.10 of 2004 registered for offences under Sections 409, 420 read with Section 34 of the Indian Penal Code. The offence is registered on the basis of the complaint lodged by one Narayandas. The case of the complainant is that he was having 12,800 shares of Reliance Industries Ltd. In the month of October 2004 the complainant handed over the shares to the Applicant who is a broker for selling the said shares. The case of the complainant is that the Applicant made payment of Rs.15.25 lakhs to him but failed to make the balance payment. The allegation is that the Applicant prepared false documents showing that 7300 shares are kept towards productivity loan for a period of one year.

2. On 21st May 2005 the Applicant was remanded to judicial custody till 24th May 2005. On 24th May 2005 the Applicant was admitted in J.J.Hospital for treatment. After the Applicant was discharged, on 23rd June 2005 the Applicant was remanded to police custody till 29th June 2005. Thereafter,

the Applicant has been remanded to judicial custody till 13th July 2005.

3. The learned Counsel appearing for the Applicant pointed out that the Applicant has cooperated with the Investigating Officer and now the investigating Officer had enough opportunity for custodial interrogation. He submitted that the report dated 19th June 2005 of the J.J.Hospital which is placed on record indicates that the Applicant is suffering from severe Diabetes and left foot gangrene and that is the reason why he was hospitalised while he was in magisterial custody. He pointed out that initially the Investigating Officer did not seek the police custody presumably because the Applicant was not maintaining good health. He submitted that considering the nature of the alleged offence and considering the fact that the Applicant is suffering from various ailments, he deserves to be enlarged on bail.

4. The learned A.P.P. pointed out that during the period when the Applicant was in police custody, he has been interrogated. The learned A.P.P. submitted that considering the nature of the offence, the Applicant is not entitled to bail.

5. Application made by the Applicant was rejected by the learned Additional Sessions Judge on the ground that as the Applicant was always in hospital, he could not be properly interrogated. Subsequently, the Applicant was remanded to police custody and has been interrogated. It appears from the conduct of the Applicant that he was all along willing to

cooperate with the Investigating agency. It is apparent from the letter dated 10th June 2005 sent by him to the Joint Commissioner of Police, Mumbai that the Applicant himself offered that he may be taken in police custody and he may be interrogated.

6. The medical papers of the Applicant maintained by the Hurkisondas Hospital are on record. The report dated 19th June 2005 submitted by the J.J.Hospital shows that the Applicant is suffering from chronic diabetes and hypertension. It is stated that the Applicant has a diabetic foot i.e non healing ulcer in left foot. In my view, considering the nature of the offence and considering the fact that the Applicant has already been interrogated and taking into consideration the ailment from which the Applicant is suffering, a case is made out for enlarging the Applicant on bail. However, considering the large amount involved, the Applicant will have to furnish personal bond in the sum of Rs.75,000/- with two local sureties in the like amount.

7. Hence I pass the following order :

i) The Applicant shall be enlarged on bail in connection with C.R.No.10 of 2004 registered with economic Offences Wing, GBCB, CID, Mumbai subject to furnishing a personal bond of Rs.75,000/- (Rupees seventy five thousand only) with two local sureties in the like amount.

ii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall

not in any manner tamper with prosecution evidence.

iii) The Applicant shall be enlarged on bail only after he submits his passport to the Investigating Officer. If the Applicant does not possess passport, he will file an Affidavit to that effect within a period of one week.

iv) The bail is granted subject to the condition that the Applicant will attend the office of the investigating agency on every Tuesday from 11.00 a.m. to 2.00 p.m. till the charge sheet is filed.

v) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

vi) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vii) Application is disposed of in above terms.

. The parties to act upon an authenticated copy of this order.

JUDGE